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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:



DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

TIFFANY WELLS,

Plaintiff,

vs.

MID AMERICA BANK AND TRUST, a
corporation; and DOES 1 through 10
inclusive,

Defendants.

CASE NO. 11cv754-WQH-WVG

ORDER:

**(1) GRANTING MOTION TO
PROCEED *IN FORMA*
PAUPERIS;**

AND

**(2) DIRECTING U.S.
MARSHAL TO EFFECT
SERVICE PURSUANT TO FED.
R. Civ. P. 4(c)(2) AND
28 U.S.C. § 1915(d)**

HAYES, Judge:

The matter before the Court is Plaintiff's Motion for Leave to Proceed *In Forma Pauperis*. (ECF No. 2).

DISCUSSION

On April 11, 2011, Plaintiff, proceeding pro se, initiated this action by filing a Complaint and the Motion for Leave to Proceed *In Forma Pauperis*. (ECF Nos. 1, 2).

All parties instituting a civil action, suit, or proceeding in a district court of the United States, other than a petition for writ of habeas corpus, must pay a filing fee of \$350.00. See 28 U.S.C. § 1914(a). An action may proceed despite a party's failure to pay only if the party is granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a). See *Rodriguez*

1 v. *Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). "To proceed in forma pauperis is a privilege not
2 a right." *Smart v. Heinze*, 347 F.2d 114, 116 (9th Cir. 1965).

3 In the declaration accompanying the Motion for Leave to Proceed *In Forma Pauperis*,
4 Plaintiff states that she is not employed, has no money in any bank account, has no assets of
5 value, and owes \$2100 in student loans. She states that she receives \$550 a month "from the
6 State," and has \$550 a month in expenses. (ECF No. 2 at 1).

7 After considering Plaintiff's motion, the Court concludes that Plaintiff is entitled to
8 proceed *in forma pauperis*.

9 CONCLUSION

10 Plaintiff's Motion to Proceed *In Forma Pauperis* is GRANTED. (ECF No. 2) The
11 Clerk of the Court shall file the Complaint without prepayment of the filing fee.

12 The Clerk shall forward to Plaintiff an "*In Forma Pauperis Package*" consisting of the
13 summons, a certified copy of this Order and the Complaint, and a blank U.S. Marshal Form
14 285. Plaintiff shall complete the Form 285 and forward it to the United States Marshal as
15 instructed in the *In Forma Pauperis Package*. The U.S. Marshal shall serve a copy of the
16 Complaint and summons upon Defendant as directed by Plaintiff on the U.S. Marshal Form
17 285. All costs of service shall be advanced by the United States. *See* 28 U.S.C. § 1915(d);
18 Fed. R. Civ. P. 4(c)(2).

19 Plaintiff shall serve upon Defendant or, if appearance has been entered by counsel, upon
20 Defendant's counsel, a copy of every further pleading or other document submitted for
21 consideration of the Court. Plaintiff shall file the original paper with the Clerk of the Court,
22 and include a Certificate of Service stating the manner in which a true and correct copy of any
23 document was served on Defendant, or counsel for Defendant, and the date of service. Any
24 document received by the Court which has not been filed with the Clerk or which fails to
25 include a Certificate of Service will be disregarded.

26 DATED: 4/27/11


27 WILLIAM Q. HAYES
28 UNITED STATES DISTRICT JUDGE